

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

---

RYAN JAEGER,

Plaintiff,

v.

OPINION and ORDER

MARTIN O'MALLEY,  
Commissioner of the Social Security Administration,

20-cv-541-jdp

Defendant.<sup>1</sup>

---

Dana W. Duncan, counsel for plaintiff Ryan Jaeger, moves under 42 U.S.C. § 406(b) for a fee award of \$21,725 after Jaeger was awarded \$94,577.00 in past-due benefits. Dkt. 31. Counsel's requested fee is less than 25 percent of Jaeger's past-due benefits, so it falls within the amount allowed by statute and the parties' fee agreement. Dkt. 31-1. Counsel was previously awarded \$9,823.53 in fees under Equal Access to Justice Act (EAJA). Dkt. 30. Counsel asks the court to allow him to retain the EAJA award and award an additional amount of \$11,901.47, the difference between the total requested fee award and the EAJA award that he already received.

The commissioner doesn't take a position on the reasonableness of Jaeger's requested fee. Dkt. 35. But the commissioner objects to counsel's proposal of subtracting the EAJA fee award from the 406(b) fee award "to the extent that it obscures the total amount of 406(b) fees that counsel is requesting." Dkt. 35, at 2.

---

<sup>1</sup> The court has amended the caption to reflect O'Malley's appointment as Commissioner. *See* Fed. R. Civ. P. 25(d).

The total amount of attorney time that counsel spent on this case for proceedings in this court was 39.5 hours, and counsel seeks an hourly rate of \$550.00 per hour. Dkt. 31; Dkt. 31-3. Counsel's requested fee is well within the bounds of what is reasonable in light of counsel's risk of non-recovery, the work he performed, the results he obtained, and the amounts awarded in similar cases. The court will grant counsel's motion and approve fees in the gross amount of \$21,725.00. For simplicity, the court will subtract the \$9,823.53 fee that counsel received under the Equal Access to Justice Act, which would otherwise have to be refunded to Jaeger, so that the net amount that should be dispersed to counsel from Jaeger's past-due benefits is \$11,901.47.

ORDER

IT IS ORDERED that Dana W. Duncan's motion for attorney fees under 42 U.S.C. § 406(b), Dkt. 31, is GRANTED. The court approves a representative fee of \$11,901.47.

Entered April 18, 2024.

BY THE COURT:

/s/

---

JAMES D. PETERSON  
District Judge